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No. 93-986

FILED

APR 18 1994

OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

MARGARET MCINTYRE,

Petitioner,

—v.—

OHIO ELECTIONS COMMISSION,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

JOINT APPENDIX

David Goldberger
(*Counsel of Record*)
The Ohio State University
College of Law
Clinical Programs
55 West 12th Avenue
Columbus, Ohio 43210
(614) 292-6821

George Q. Vaile
776 County Road 24
Marengo, Ohio 43334
(614) 747-2218

Counsel for Petitioner

Andrew I. Sutter
(*Counsel of Record*)
Assistant Attorney General
Chief Counsel's Staff
State Office Tower
30 E. Broad Street, 15th Floor
Columbus, Ohio 43215-3428
(614) 466-2872

Counsel for Respondent

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**RELEVANT EXCERPTS OF
OHIO COURT DOCKET ENTRIES**

**RELEVANT EXCERPTS OF CIVIL CASE DISPLAY
FRANKLIN COUNTY COURT OF COMMON PLEAS**

**[ENTRY
NUMBER]**

1: 4/16/90	NOTICE OF APPEAL
8: 4/25/90	CERTIFICATION OF RECORD OF ADM PROCEEDINGS
20: 10/02/90	JUDGMENT ENTRY -- JDG.THOMPSON,TERMINATED
21: 10/23/90	NOTICE OF APPEAL FILED BY ATTY. COLA 90AP-1221
22: 10/23/90	COPY OF JUDGMENT ENTRY FILED

**RELEVANT EXCERPTS OF COURT OF APPEALS
DOCKET AND JOURNAL ENTRIES
Appeal No. 90 AP 1221**

**[ENTRY
NUMBER]**

1	1990	OCT 23	NOTICE OF APPEAL WITH DOCKET SHEET FILED
10	1990	DEC 20	BRIEF OF APPELLANT (OHIO ELECTIONS)
12	1991	JAN 09	BRIEF OF APPELLEE (MCINTYRE)
13	1991	JAN 22	REPLY BRIEF OF APPELLANT (OHIO ELEC)
16	1992	APR 07	OPINION RENDERED (20 PGS)
17	1992	APR 10	JUDGMENT OF THE

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18 1992 MAY 11

COURT OF COMMON PLIAS
IS REVERSED AND
REMEMDED AS PER ENTRY
C/A DR, CIVIL, HAYES,
VAILE, DEVINE, COLA
APPELLEE (MCINTYRE)
NOTICE OF APPEAL TO
THE SUPREME COURT

**RELEVANT EXCERPTS OF THE SUPREME COURT
OF OHIO DOCKET EVENT LISTING**

ACTION DATE	ACTION
06-10-92	NOTICE OF APPEAL FILD FILED BY MARGARET MCINTYRE
09-30-92	MEMO IN SUPP OF JURIS FILD UPON CONSIDERATION OF JURIS QUESTION
DECISION: 09-22-93	09-30-92 ALLOWED UPON CONSIDERATION OF THE MERITS
DECISION: 10-05-93	09-22-93 AFFIRMED CERT COPY OF ENTRY SENT TO CLERK
02-28-94	MANDATE ISSUED ORDER FROM US SUPREME CT FILD WRIT OF CERTIORARI GRANTED

**BEFORE THE OHIO ELECTIONS COMMISSION
STATE OF OHIO**

Affidavit of J. Michael Hayfield

I, J. Michael Hayfield, depose and state as follows:

1. My name is J. Michael Hayfield.
2. I reside at 52 0 Michael Avenue, Westerville, Ohio 43081.
3. On or about April 27, 1988, I observed Margaret McIntyre, whose address is 5278 Broadview Road, Columbus, OH 43230, distributing literature at an evening meeting at Blendon Middle School.
4. Exhibit A, attached hereto and incorporated herein, is a copy of the literature I observed her distributing at that time and location. Said literature relates to the May 3, 1988 primary election at which a local ballot issue regarding an operating levy for the Westerville City Schools was on the ballot.
5. Exhibit A does not contain the name, residence or business address of the person issuing or making the statement, who appears to be Margaret McIntyre, nor does it contain the name, residence or business address of the person responsible for the statement if it is not Margaret McIntyre.
6. I believe that Margaret McIntyre has violated section 3599.09 of the Revised Code in failing to identify Exhibit A.
7. On or about April 27, 1988, after examining a copy of Exhibit A which Margaret McIntyre was distributing, I informed Margaret McIntyre at the time she was distributing Exhibit A, that she was in violation of election law for failing to identify the statements contained within Exhibit A.
9. On or about April 28, 1988, Margaret McIntyre dis-

tributed campaign literature, attached hereto and incorporated herein as Exhibit B, at Walnut Springs Middle School.

10. Subsequent to this time, I obtained a copy of Exhibit B, relating to the May 3, 1988 primary election at which a local ballot issue regarding an operating levy for the Westerville City Schools was on the ballot, and I examined its contents.

11. Exhibit B does not contain the name, residence or business address of the person issuing or making the statement, who appears to be Margaret McIntyre, nor does it contain the name, residence or business address of the person responsible for the statement if it is not Margaret McIntyre.

12. Exhibit B names what may be an organization called, "Concerned Parents and Tax Payers".

13. Exhibit B does not contain the name, residence or business address of the chairman, treasurer, or secretary of the organization that appears to be issuing the statement, Concerned Parents and Tax Payers.

14. I believe that Margaret McIntyre has violated section 3599.09 of the Revised Code in failing to identify Exhibit B.

15. If Concerned Parents and Tax Payers is a political action committee, I believe that Margaret McIntyre has violated section 3517.13(E) of the Revised Code in failing to file a statement required under section section 3517.10 of the Revised Code, with the penalty for the same being a fine of \$100 per day for each day of violation.

16. I believe that Margaret McIntyre knowingly violated either section 3517.13 or 3599.09 of the Revised Code, based on her continued publishing and distribution of the statement which I informed her did not meet elec-

tion requirements.

17. I hereby file this affidavit with the Ohio Elections Commission pursuant to sections 3517.15, and 3599.09 of the Ohio Revised Code, declaring that the statements made herein are based on personal knowledge, observation and examination of Exhibits A and B.

Affiant further sayeth naught.

J. Michael Hayfield

[Jurat Omitted in Printing]

EXHIBIT A

VOTE NO

ISSUE 19 SCHOOL TAX LEVY

Last election Westerville Schools, asked us to vote yes for new buildings and expansions programs. We gave them what they asked. We knew there was crowded conditions and new growth in the district.

Now we find out there is a 4 million dollar deficit - **WHY?**

We are told the 3 middle schools must be split because of over-crowding, and yet we are told 3 schools are being closed - **WHY?**

A magnet school is not a full operating school, but a specials school.

Residents were asked to work on a 20 member commission to help formulate the new boundaries. For 4 weeks they worked long and hard and came up with a very workable plan. Their plan was totally disregarded - **WHY?**

WASTE of tax payers dollars must be stopped. Our children's education and welfare must come first. **WASTE CAN NO LONGER BE TOLERATED.**

PLEASE VOTE NO

ISSUE 19

**THANK YOU,
CONCERNED PARENTS
AND
TAX PAYERS**

**[DISTRIBUTED AT
THE BLENDON
MEETING]**

EXHIBIT B

VOTE NO

ISSUE 19 SCHOOL TAX LEVY

Last election Westerville Schools, asked us to vote yes for new buildings and expansions programs. We gave them what they asked. We knew there was crowded conditions and new growth in the district.

Now we find out there is a 4 million dollar deficit - **WHY?**

We are told the 3 middle schools must be split because of over-crowding, and yet we are told 3 schools are being closed - **WHY?**

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WASTE of tax payers dollars must be stopped. Our children's education and welfare must come first. **WASTE CAN NO LONGER BE TOLERATED.**

PLEASE VOTE NO

ISSUE 19

**THANK YOU,
CONCERNED PARENTS
AND
TAX PAYERS**

NOT PAID FOR BY PUBLIC FUNDS

**[DISTRIBUTED AT
WALNUT SPRINGS]**

Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

April 6, 1989

Case No. 89A-9

TO: Michael Hayfield

The Ohio Elections Commission has received your complaint alleging one or more violations of Ohio Revised Code section(s) 3599.09 (incomplete disclaimer on literature, 3517.10(D) (Failure to file Designation of Treasurer) and 3517.13(E) (Failure to file PAC report). A copy of the relevant statutes and the Commission's Rules of Procedure are enclosed.

The first stage of a Commission investigation is known as the preliminary review. The Commission has scheduled a preliminary review of your case for Monday, 8:30 a.m., May 15, 1989, in the Annex Hearing Room on the third floor of the Ohio Statehouse Annex which is located at Broad and Third Streets, Columbus, Ohio. The person(s) against whom the complaint was filed have the right to file a written response with the Commission prior to the preliminary review disputing the alleged violation(s) or explaining the reason or reasons for any violation(s).

At the preliminary review, the Commission will review the documents previously submitted by you and the respondents. After reviewing the documents, the Commission may do one of the following: It may find that there has been no violation; it may find there has been a violation; or it may set the matter for a hearing at a later date if it desires to receive testimony. If the Commission finds a violation, it must do one of the following: Impose a fine and not to refer the matter for prosecu-

tion. Following the preliminary review, the Commission will mail you a letter advising the action it took.

You are welcome to attend and observe the preliminary review. However, you may not make any statements or present any evidence at that time.

If, after reading the enclosed materials, you have any questions, please feel free to telephone me at (614) 466-2585. Whenever you telephone, correspond or file material with the Commission, please be certain to refer to the case number listed above.

Sincerely,

Donald J. McTigue
Commission Counsel

dlc

ENCLOSURES
0 0 1 8 E

Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

April 6, 1989
Case No. 89A-9

TO: Margaret McIntyre

The Ohio Elections Commission has received a complaint alleging one or more violations by you of Ohio Revised Code section(s) 3599.09 (Incomplete disclaimer on literature, 3517.10(D) (Failure to file a Designation of Treasurer) and 3517.13(E) (Failure to file PAC report). It is the duty of the Commission to investigate such complaints. A copy of the complaint, the relevant statutes, and the Commission's Rules of Procedure is enclosed.

The first stage of a Commission investigation is known as the preliminary review. The Commission has scheduled a preliminary review of your case for Monday, 8:30 a.m., May 15, 1989, in the Annex Hearing Room on the third floor of the Ohio Statehouse Annex which is located at Broad and Third Streets, Columbus, Ohio.

You have the right to file a written response with the Commission disputing the alleged violation(s) or explaining the reasons for any violation(s). Your response must be *notarized* and must be *received* by the Commission at the above address no later than twenty-one (21) days after the date of this letter. In addition to your own notarized statement, you may submit exhibits and notarized statements of other persons that substantiate the facts in your response. Whenever you correspond or file material with the Commission, be certain to refer to the case number listed above.

At the preliminary review, the Commission will re-

view the documents submitted by the complaint(s) and any documents submitted by you. After reviewing the documents, the Commission may do one of the following: It may find that there has been no violation; it may find that there has been a violation; or, it may set the matter for a hearing at a later date if it desires to receive testimony. If the Commission finds a violation, it must do one of the following: Impose a fine in accordance with Rule 111:1-1-10 of the Commission; refer the matter to a local prosecutor; or, determine that good cause has been shown for the Commission not to impose a fine and not to refer the matter for prosecution. Following the preliminary review, the Commission will send you a letter advising what action it has taken.

You are welcome to attend and observe the preliminary review. However, you may not make any statements or present any evidence at that time. As stated above, *notarized* statements and other evidence must be submitted no later than 21 days after the date of this letter.

If, after reading the enclosed materials, you have any questions, please feel free to telephone me at (614) 466-2585.

Sincerely,

Donald J. McTigue
Commission Counsel

dlc
ENCLOSURES
0 0 1 7 E

CASE NO. 89A-9

EXHIBIT: 1

April 15, 1989.

Donald J. McTigue
Commission Counsel
Ohio Office Tower, 14th. Floor
Columbus, Ohio 43266-0418

Re; Case No. 89A-9

Dear Mr. McTigue:

This letter is in response to the complaint filed by J. Michael Hayfield. The literature in question and presented as Exhibit A and B were distributed in error. Due to some necessary changes, a few copies were run through with incomplete information. We thought all of those had been destroyed but apparently a few were missed and mixed in with the good fliers.

Enclosed within is a letter from the printer and copies of the originals. It was my belief that all fliers distributed contained the same wording as the original. At no time was there any intent to hide my identity or to issue any false statements. At no time did I imply that I represented any group or organization. I was merely expressing my concerns and those of others that I had talked with in our school district.

Therefore, being a party of one, I am not required by the State of Ohio or the County of Franklin to register as a political action committee.

Sincerely,

Margaret McIntyre
5278 Broadview Road
Columbus, Ohio 43230

[Jurat Omitted in Printing]

INSTANT COPY

599 S. STATE ST., WESTERVILLE, OHIO 43081
TELEPHONE 882-8520

TO WHOM IT MAY CONCERN:

I WAS THE PRINTER THAT PRINTED MARGE McINTYRE'S PRINTED MATERIAL. THE DOCUMENTS THAT WERE SHOWN TO ME COULD HAVE BEEN VERY EASILY ALTERED TO SUIT THE PERSON WHO IS INSISTING ON LEGAL ACTION AGAINST HER. WITH TODAY'S HIGH TECH COPIERS ANYTHING IS POSSIBLE. I KNOW HER TO BE A LAW ABIDING CONCERNED TAX PAYER THAT WOULD NOT INTENTIONALLY VIOLATE ANY THAT THAT SHE WOULD BE AWARE OF. THIS WHOLE THING SMELLS LIKE SOUR GRAPES TO ME.

SINCERELY,

JOSEPH SUROVIEC (OWNER)

[Jurat Omitted in Printing]

CASE NO: 89A-9

EXHIBIT: 2

BEFORE THE OHIO ELECTIONS COMMISSION
STATE OF OHIO

J. Michael Hayfield (Case No. 89A-9
vs. (
Margaret McIntyre (

Amended Affidavit of J. Michael Hayfield

I, J. Michael Hayfield, depose and state as follows:

1. My name is J. Michael Hayfield.
2. I reside at 520 Michael Avenue, Westerville, Ohio 43081.
3. On or about April 27, 1988, I observed Margaret McIntyre, whose address is 5278 Broadview Road, Columbus, OH 43230, distributing literature at an evening meeting at Blendon Middle School.
4. Exhibit A, attached hereto and incorporated herein, is a copy of the literature I observed her distributing at that time and location. Said literature relates to the May 3, 1988 primary election at which a local ballot issue regarding an operating levy for the Westerville City Schools was on the ballot.
5. Exhibit A does not contain the name, residence or business address of the person issuing or making the statement, who appears to be Margaret McIntyre, nor does it contain the name, residence or business address of the person responsible for the statement if it is not Margaret McIntyre.
6. I believe that Margaret McIntyre has violated section 3599.09 of the Revised Code in failing to identify Exhibit A.
7. On or about April 27, 1988, after examining a copy

of Exhibit A which Margaret McIntyre was distributing, I informed Margaret McIntyre at the time she was distributing Exhibit A, that she was in violation of election law for failing to identify the statements contained within Exhibit A.

8. At the time I so informed her, Margaret McIntyre stated to me that she did not need to identify the material.

9. I observed at the meeting on or about April 27, 1988, that Margaret McIntyre proceeded to widely distribute copies of Exhibit A, exactly as it appears, to nearly every person who entered the building or room for the meeting. She did not enter the meeting room but remained outside the doorway to the room, continuing to distribute copies of Exhibit A exactly as it appears as attached to this affidavit.

10. At the meeting April 27, 1989, I observed and listened to the superintendent of Westerville City Schools, Ernest Husarik, as part of his presentation, discuss the statements appearing in Exhibit A distributed at the meeting by Margaret McIntyre.

11. The copies of Exhibit A were widely distributed. I believe that any other version of Exhibit A that has been presented by Margaret McIntyre to the Ohio Elections Commission has been altered and was not the copy distributed on April 27, 1989.

12. On or about April 28, 1988, Margaret McIntyre distributed campaign literature, attached hereto and incorporated herein as Exhibit B, at Walnut Springs Middle School.

13. Subsequent to this time, I obtained a copy of Exhibit B, relating to the May 3, 1988 primary election at which a local ballot issue regarding an operating levy for the Westerville City Schools was on the ballot, and I examined its contents.

14. Exhibit B does not contain the name, residence or

business address of the person issuing or making the statement, who appears to be Margaret McIntyre, nor does it contain the name, residence or business address of the person responsible for the statement if it is not Margaret McIntyre.

15. Exhibit B names what may be an organization called, "Concerned Parents and Tax Payers".

16. Exhibit B does not contain the name, residence or business address of the chairman, treasurer, or secretary of the organization that appears to be issuing the statement, Concerned Parents and Tax Payers.

17. I believe that Margaret McIntyre has violated section 3599.09 of the Revised Code in failing to identify Exhibit B.

18. If Concerned Parents and Tax Payers is a political action committee, I believe that Margaret McIntyre has violated section 3517.13(E) of the Revised Code in failing to file a statement required under section 3517.10 of the Revised Code, with the penalty for the same being a fine of \$100 per day for each day of violation.

19. I believe that Margaret McIntyre knowingly violated either section 3517.13 or 3599.09 of the Revised Code, based on her continued publishing and distribution of the statement which I informed her did not meet election requirements.

20. I hereby file this affidavit with the Ohio Elections Commission pursuant to sections 3517.15, and 3599.09 of the Ohio Revised Code, declaring that the statements made herein are based on personal knowledge, observation and examination of Exhibits A and B.

Affiant further sayeth naught.

J. Michael Hayfield

[Jurat Omitted in Printing]

BEFORE THE OHIO ELECTIONS COMMISSION

ITEM NO. 5, CASE: HAYFIELD VS. MCINTYRE
CASE NO. 89A-9

EXCERPT OF PROCEEDINGS

BEFORE THE OHIO ELECTIONS COMMISSION,
COMMISSIONER LARRY JAMES, JUDITH D. MOSS, DOROTHY WASHINGTON, MICHAEL IGOE, MEROM BRACHMAN PRESIDING, TAKEN BEFORE ME, SHARON L. REIL, REGISTERED PROFESSIONAL REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF OHIO, AT THE OHIO STATEHOUSE ANNEX, BROAD AND THIRD STREETS, COLUMBUS, OHIO, ON MONDAY, JULY 17, 1989, AT 8:48, A.M.

PROFESSIONAL REPORTERS, INC.
145 NORTH HIGH STREET
COLUMBUS, OHIO 43215
PHONE 614/464-0675

APPEARANCES:

COMMISSIONER LARRY JAMES
JUDITH MOSS
DOROTHY WASHINGTON
MICHAEL IGOE
MEROM BRACHMAN

ALSO PRESENT: DON MCTIGUE
DAVE CLOUSTON

* * * * *

CHAIRMAN JAMES: ON THE NEXT ITEM, WE HAVE MICHAEL HAYFIELD VERSUS MARGARET MCINTYRE; INCOMPLETE DISCLAIMER ON LITERATURE, FAILURE TO DESIGNATE TREASURER PURSUANT TO SECTION 3517.10 (D), BALLOT ISSUE, WESTERVILLE SCHOOL LEVY ISSUE 45, ELECTION 1988 GENERAL.

WE JUST HAD AN 89A-8 REGARDING THE SAME RESPONDENT. IS MR. HAYFIELD HERE?

MR. BRUNNER: I AM REPRESENTING HIM.

CHAIRMAN JAMES: IF MR. HAYFIELD IS NOT HERE, WHAT'S THE PLEASURE OF THE COMMISSION?

MS. MOSS: IS THIS SET FOR HEARING?

MR. MCTIGUE: IT IS SET FOR HEARING. MR. HAYFIELD WAS SENT CERTIFIED MAIL NOTICE OF THE HEARING TODAY. WE HAVE A RETURNED RECEIPT SIGNED BY A KIM HAYFIELD AT MICHAEL HAYFIELD'S ADDRESS.

CHAIRMAN JAMES: IS THERE A MOTION TO DISMISS AND FAILURE TO PROSECUTE?

MS. MOSS: SO MOVE.

MR. BRACHMAN: SECOND

CHAIRMAN JAMES: ALL THOSE IN FAVOR?

MS. MOSS: AYE.

MS. WASHINGTON: AYE.

MR. IGOE: AYE.

CHAIRMAN JAMES: CARRIES.

* * * * *

JENNIFER L. BRUNNER
ATTORNEY AND COUNSELLOR AT LAW

CASE NO. 89A-9
EXHIBIT: B

OF COUNSEL TO:

SUITE 730, 37 WEST BROAD STREET
COLUMBUS, OHIO 43215

Lumpe & Everett
Columbus, Ohio

Telephone: (614) 899-9002

Cellular: (614) 271-5715

Walter, Haverfield,
Buescher & Chockley
Cleveland, Ohio

Facsimile: (614) 898-7217

July 25, 1989

Ohio Elections Commission
Attn: Donald J. McTigue, Counsel
Secretary of State's Office
14th floor - 30 E. Broad Street
Columbus, OH 43266-0418

RE: Ohio Elections Commission case no. 89A-9;
Motion to Reconsider Dismissal of Complaint

Dear Don:

Enclosed is a Motion to Reconsider Dismissal of Complaint in the above-noted case heard by the Ohio Elections Commission July 17, 1989. The Complainant desires to have the Commission hear his complaint. Per your and Commission Chairman James' suggestions, we are filing this motion to reconsider.

Please let me know if you have any questions or need any additional information.

Sincerely,

Jennifer L. Brunner

Enclosure

**BEFORE THE OHIO ELECTIONS COMMISSION
STATE OF OHIO**

J. Michael Hayfield (Case No. 89A-9
 (
vs. (
 (
Margaret McIntyre (

Motion to Reconsider Dismissal of Complaint

Complainant moves that the Dismissal of his Complaint be reconsidered and that the complaint be set for a hearing.

Memorandum in Support of Motion

On July 17, 1989, the Ohio Elections Commission had scheduled the above-captioned case for a hearing. Complainant was not in attendance at that hearing, but was represented by counsel, named below, who was in attendance at that hearing. When Complainant's case was called at that hearing, Complainant's counsel requested and was denied the opportunity to represent Complainant at the hearing by the Chairman of the Commission. Following said denial, the Commission Chairman moved for dismissal of the complaint for want of prosecution. The motion was approved by the Commission.

At the time of the scheduled hearing of the above-captioned matter, Complainant was on a family vacation and had asked counsel named below to represent him at any Elections Commission hearings. Counsel named below had prepared for Complainant his complaint in the matter and his subsequent Motion to Exclude Evidence. The rules of the Ohio Elections Commission require no formal record of appearance. Complainant's counsel was in attendance at the scheduled hearing of the matter in question.

Complainant respectfully moves the Commission to reconsider the dismissal of his complaint July 17, 1989, and to set the matter for hearing. In the event the Commission grants Complainant's motion, Complainant will be represented by counsel named below.

Respectfully submitted,

Jennifer L. Brunner
Attorney for Complainant
Suite 730, 37 W. Broad Street
Columbus, OH 4321

Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

August 2, 1989

Case No. 89A-9
Hayfield v. McIntyre

TO: Margaret McIntyre

Please be advised that at its meeting of July 17, 1989, the Ohio Elections Commission adopted the following finding in the above referenced case:

That the alleged violations of R.C.3599.09, 3517.10(D) and 3517.13(E) are dismissed.

A request for reconsideration of the above matter has been received from the complainant. The request for reconsideration will be reviewed by the Commission at its meeting of Monday, August 28, 1989, at 8:30 A.M. The meeting will be held in the Annex Hearing Room on the third floor of the Ohio Statehouse Annex, Broad and Third Streets, Columbus, Ohio.

If you should have any questions, please feel free to contact me.

Very truly yours,

Donald J. McTigue
Commission Counsel

dlc
0294E
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CASE NO. 89A-9
EXHIBIT: 4

August 14, 1989.

Ohio Elections Commission
Donald J. McTigue, Counsel
14th. Floor
30 East Broad Street
Columbus, Ohio 43266-0418

RE: Ohio Elections Commission - Case No. 89A-9
Motion to Deny Reconsideration of Dismissal of
Complaint

Mr. Donald J. McTigue:

Enclosed is a Motion to Deny the Reconsideration of the Dismissal of Complaint in the above-noted case that was filed with the Commission by Jennifer L. Brunner on July 25, 1989. The case was dismissed by the Commission at the July 17, 1989 hearing. The Complainant did not choose to appear and did not pre-arrange to be represented by counsel. Therefore, I am filing this Motion for Denial. I considered the matter important enough to appear and I feel Mr. Hayfield did not. Therefore, I believe his Motion for Reconsideration should be Denied.

Sincerely,

Margaret McIntyre
5278 Broadview Road
Columbus, Ohio 43230

**BEFORE THE OHIO ELECTIONS COMMISSION
STATE OF OHIO**

J. Michael Hayfield
vs.
Margaret McIntyre

Case No. 89A-9

**Motion to Deny Reconsideration of Dismissal of
Complaint**

Margaret McIntyre moves that the Ohio Elections Commission Deny the Motion filed by Jennifer Brunner for Reconsideration of Dismissal of Complaint on behalf of J. Michael Hayfield.

Memorandum in Support of Motion

On July 17, 1989, the Ohio Elections Commission had scheduled the above case for hearing. Complainant was not in attendance at that hearing and was not represented by counsel-of-record. When Jennifer Brunner stepped forward and offered to represent Mr. Hayfield, the Commission justifiably denied her request and dismissed the case. Considering Jennifer Brunner had filed against Margaret McIntyre also and that Jennifer Brunner is deeply involved with the Westerville School Administrators and that Jennifer Brunner is Professionally and personally involved with members of the Ohio Elections Commission and the Secretary of State's Office and its personnel and that at the present time Margaret McIntyre has filed charges against Jennifer Brunner with the Columbus Bar Association, it is my opinion that it would be a conflict of interest for Jennifer Brunner to represent any party or action against Margaret McIntyre before this Commission.

I respectfully move the Ohio Elections Commission

Deny the Motion for Reconsideration of Dismissal of
Complaint.

Sincerely,

Margaret McIntyre
5278 Broadview Road
Columbus, Ohio 43230

BEFORE THE OHIO ELECTIONS COMMISSION

MICHAEL HAYFIELD, :
COMPLAINANT, :
VS. : CASE NO. 89A-9
MARGARET MCINTYRE, :
RESPONDENT. :

EXCERPT OF PROCEEDINGS
HAD BEFORE THE OHIO ELECTIONS COMMISSION, UNDER THE APPLICABLE RULES OF CIVIL PROCEDURE, TAKEN BEFORE ME, LINDY L. MEYER, JR., A NOTARY PUBLIC IN AND FOR THE STATE OF OHIO, AT THE STATEHOUSE ANNEX HEARING ROOM, COLUMBUS, OHIO, ON MONDAY, MARCH 19, 1990 AT 8:45 O'CLOCK A.M.

PROFESSIONAL REPORTERS, INC.
172 EAST STATE STREET, SUITE 203
COLUMBUS, OHIO 43215
PHONE 614/464-0675 (FAX) 614/464-2144

APPEARANCES:

COMMISSION MEMBERS:

MICHAEL IGOE, CHAIRMAN
DOROTHY WASHINGTON
MEROM BRACHMAN
JUDITH MOSS

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO
BY MESSRS. DON MCTIGUE AND ROGER
DEAL
ASSISTANT ATTORNEYS GENERAL
14TH FLOOR, STATE OFFICE TOWER
30 EAST BROAD STREET
COLUMBUS, OHIO 43266-0418

ALSO PRESENT:

DEBBIE CONN
MICHAEL HAYFIELD
MARGARET MCINTYRE

MONDAY MORNING SESSION
MARCH 19, 1990

MR. IGOE: ALL RIGHT. CASE NO. 89A-9; COMPLAINANT, MICHAEL HAYFIELD; RESPONDENT, MARGARET MCINTYRE. ALLEGATIONS ARE INCOMPLETE DISCLAIMER OF LITERATURE IN VIOLATION OF 3599.09, FAILURE TO FILE A DESIGNATION IN VIOLATION OF 3517.10, FAILURE TO FILE A PAC REPORT IN VIOLATION OF 3517.13(E).

MR. HAYFIELD, THIS IS YOUR OPPORTUNITY TO PRESENT EVIDENCE, TESTIMONY, TO SUPPORT THE COMPLAINT THAT YOU FILED AGAINST MS. MCINTYRE.

MR. HAYFIELD: GOOD MORNING, MR. CHAIRMAN.

MR. IGOE: SWEAR HIM IN, PLEASE.

MICHAEL HAYFIELD,
BEING BY ME FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

MR. HAYFIELD: ON APRIL 27TH I WAS GOING INTO A MEETING AT BLENDON MIDDLE SCHOOL, A TYPICAL SCHOOL MEETING. I ENCOUNTERED MRS. MCINTYRE DISTRIBUTING LITERATURE TO PARENTS GOING INTO THE MEETING, AND THAT LITERATURE IS LISTED AS EXHIBIT A, I BELIEVE, IN YOUR PACKET.

AT THAT TIME THE LITERATURE DID NOT CONFORM TO THE CAMPAIGN REGULATIONS AND DID NOT HAVE THE NAME OF A TREASURER OR AN ORGANIZATION, AND I SAID TO MRS. MCINTYRE AT THAT TIME, "IT DOESN'T CONFORM WITH CAMPAIGN LITERATURE."

I ENCOUNTERED MRS. MCINTYRE ON APRIL THE 18TH. I WAS AGAIN HANDED A PIECE OF LITERATURE, AND AT THAT TIME THERE WAS AFFIXED TO THAT LITERATURE SOME INAPPROPRIATE LABELINGS AND IT DID NOT CONFORM TO THE CAMPAIGN REGULATIONS, SO AT THAT TIME I ALSO SAID TO MRS. MCINTYRE, "THAT DOES NOT CONFORM," AT WHICH TIME SHE SAID SHE HAD STUDIED IT AND IT DID, SO THAT'S WHAT LED US TO COME TO THIS POINT IN TIME, AND ALL OF THAT IS INCLUDED IN MY AFFIDAVIT.

MR. IGOE: DO YOU KNOW WHETHER OR NOT ANYBODY OTHER THAN MRS. MCINTYRE WAS PASSING OUT THE LITERATURE THE FIRST TIME THAT YOU SAW HER? I MEAN DID

IT COME TO YOUR ATTENTION THAT THIS WAS BEING GENERALLY CIRCULATED?

MR. HAYFIELD: THERE WAS A PERSON IN THE PARKING LOT ON THE FIRST EVENING THAT I OBSERVED WITH MRS. MCINTYRE, AND I ASKED THAT PERSON WHO SHE WAS AND SHE SAID SHE WAS MRS. MCINTYRE'S DAUGHTER. SHE WAS ACCOMPANIED BY ANOTHER GENTLEMAN ABOUT THE SAME AGE AND I ASKED WHO HE WAS. SHE SAID THAT WAS HER BOYFRIEND.

MR. IGOE: WERE THEY PASSING OUT LITERATURE?

MR. HAYFIELD: YES, THE LITERATURE THAT'S ON EXHIBIT A. AT THAT TIME, THEN, I - THE TIME - IT WAS TIME FOR THE MEETING TO START, SO I WENT ON IN TO THE MEETING.

MR. IGOE: ANYONE HAVE ANY QUESTIONS?

MR. MCTIGUE: CROSS-EXAMINATION?

MR. IGOE: YOU WANT TO LOOK AT THAT?

(DISCUSSION OFF THE RECORD.)

MR. IGOE: MRS. MCINTYRE, YOU HAVE THE OPPORTUNITY TO ASK MR. HAYFIELD QUESTIONS ON THE COMPLAINT THAT HE HAS FILED AGAINST YOU. IF YOU WOULD LIKE TO DO IT FROM BACK THERE OR IF YOU'D LIKE TO DO IT STANDING UP, WHATEVER YOUR PREFERENCE, THIS IS YOUR OPPORTUNITY TO QUESTION HIM. THIS IS NOT -- WHEN YOU GET FINISHED ASKING HIM QUESTIONS, THEN YOU WILL HAVE AN OPPORTUNITY TO MAKE A STATEMENT OR PRESENT ANY OTHER KIND OF EVIDENCE THAT YOU WISH, BUT IF YOU HAVE

ANY SPECIFIC QUESTIONS FOR HIM, NOW'S THE TIME.

MRS. MCINTYRE: MR. HAYFIELD, IS IT NOT TRUE THAT THE TWO YOUNG PEOPLE IN THE PARKING LOT WERE GETTING OUT OF A CAR, ONE WAS MY SON, THE OTHER WAS HIS GIRLFRIEND, AND THE WAY YOU OBTAINED THE FLIERS WAS THAT YOU TOOK THEM OUT OF THE YOUNG GIRL'S HAND AND TOLD HER SHE HAD NO BUSINESS ON THAT LOT AND NO BUSINESS PASSING OUT THOSE FLIERS?

MR. HAYFIELD: THAT IS NOT CORRECT. WHEN I APPROACHED THOSE FOLKS, THEY WERE PUTTING FLIERS IN WINDOW -- WINDSHIELD WIPERS, AND THE YOUNG LADY DID IDENTIFY HERSELF AS MRS. MCINTYRE'S DAUGHTER, QUOTE, HER DAUGHTER, WHEN I ASKED THE QUESTION.

MR. IGOE: ANYTHING ELSE?

MRS. MCINTYRE: NO.

MR. IGOE: ANY QUESTIONS?

MS. MOSS: NO.

MR. IGOE: WELL, LET'S GET HER --

MR. HAYFIELD, JUST OUT OF CURIOSITY, ARE YOU AFFILIATED WITH WESTERVILLE SCHOOLS?

MR. HAYFIELD: I'M THE ASSISTANT SUPERINTENDENT OF ELEMENTARY EDUCATION AND I WAS GOING TO A REGULARLY SCHEDULED SCHOOL MEETING AT BLENDON SCHOOL.

MR. IGOE: OKAY. THANKS.

MRS. MCINTYRE, THIS IS YOUR OPPOR-

TUNITY TO PRESENT YOUR SIDE OF THE CASE.

MRS. MCINTYRE: YES.
ON THE NIGHT THAT --

MR. IGOE: I'M SORRY.

WILL YOU SWEAR HER IN, PLEASE?

MARGARET MCINTYRE,
BEING BY ME FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

MR. IGOE: MA'AM, BEFORE YOU START, I HAVE A COUPLE OF QUESTIONS I WANT TO ASK YOU. I'VE GOT A COPY OF A LETTER DATED AUGUST 14TH, 1989 THAT'S MARKED AS EXHIBIT 4 IN THIS FILE, AND IN IT YOU HAVE A MOTION TO DENY RECONSIDERATION AND DISMISSAL OF THE COMPLAINT. DOES THAT LOOK FAMILIAR TO YOU?

MRS. MCINTYRE: YES, IT DOES.

MR. IGOE: OKAY. YOU INDICATE IN HERE THAT JENNIFER BRUNNER HAS FILED AGAINST MARGARET MCINTYRE AND IS DEEPLY INVOLVED WITH THE WESTERVILLE SCHOOL, AND ADMITTEDLY THAT JENNIFER BRUNNER IS PROFESSIONALLY AND PERSONALLY INVOLVED WITH MEMBERS OF THE OHIO ELECTIONS COMMISSION AND THE SECRETARY OF STATE'S OFFICE.

ARE YOU IMPLYING THAT THERE IS SOME SORT OF RELATIONSHIP THAT SHE HAS THAT IS GOING TO PREJUDICE ANYBODY IN THIS COMMISSION?

MRS. MCINTYRE: I FEEL THAT'S A CON-

FLICT OF INTEREST.

MR. IGOE: WHAT IS THE CONFLICT, MA'AM?

MRS. MCINTYRE: THE CONFLICT OF INTEREST WOULD BE THE FACT THAT SHE HAS ALREADY PUT CHARGES AGAINST ME AS FAR AS THE ELECTION COMMISSION IS CONCERNED. NOT ONLY THAT, SHE HAS BEEN AN EMPLOYEE OF THE ELECTION COMMISSION FOR MANY YEARS. TO ME THAT JUST SEEMS LIKE, YOU KNOW, SHE'S STRICTLY ON ONE SIDE, AND I DON'T REALLY SEE HOW THAT COULD BE BENEFICIAL TO ME.

MR. IGOE: IS THAT THE TOTAL EXTENT OF WHAT YOU'RE SAYING ABOUT PERSONAL AND PROFESSIONAL INVOLVEMENT IS IF SHE'S EMPLOYED BY THE ELECTION COMMISSION?

MRS. MCINTYRE: WELL, AND THAT SHE IS, WELL, WITHIN THE SCHOOL SYSTEM. SHE USED TO RUN CAMPAIGNS FOR THEM.

MR. IGOE: I'M NOT ASKING ABOUT THAT. I'M ASKING ABOUT HER PERSONAL AND PROFESSIONAL INVOLVEMENT WITH MEMBERS OF THIS COMMISSION, AND I'M ASKING YOU IF THERE'S SOME INFORMATION THAT YOU HAVE THAT YOU THINK IS GOING TO PREJUDICE ONE OF THE MEMBERS.

MRS. MCINTYRE: I DON'T - I REALLY DON'T KNOW, BUT I WOULD WANT TO ELIMINATE THE POSSIBLE CHANCES OF THAT.

MR. IGOE: YOU MADE THE STATEMENT THAT SHE IS PERSONALLY AND PROFESSIONALLY INVOLVED, AND I WANT TO KNOW THE REASON FOR THAT, BECAUSE IF THERE'S SOMEBODY ON THIS COMMISSION YOU THINK HAS ANY PREJUDICE ABOUT THIS CASE, I

WANT TO KNOW ABOUT IT.

MRS. MCINTYRE: IS SHE NOT AN EMPLOYEE? HAS SHE NOT BEEN APPOINTED BY THE ELECTION COMMISSION?

MR. IGOE: I DON'T HAVE ANY IDEA.

MS. MOSS. NOT TO MY KNOWLEDGE.

MRS. MCINTYRE: WELL, THAT WAS INFORMATION THAT I RECEIVED, AND MRS. BRUNNER VERIFIED IT.

MS. MOSS: DURING WHAT TIME PERIOD DO YOU BELIEVE SHE WAS AN EMPLOYEE OF THE COMMISSION?

MRS. MCINTYRE: IT WOULD BE PRIOR TO ALL OF THIS HAPPENING.

MS. MOSS: WOULD IT HAVE BEEN PRIOR TO ANY OF THE CURRENT MEMBERS HAVING BEEN APPOINTED?

MRS. MCINTYRE: I REALLY DON'T KNOW HOW LONG THE CURRENT MEMBERS HAVE BEEN ON THE COMMISSION.

MR. MCTIGUE: SHE WAS THE LEGISLATIVE LIAISON FOR THE SECRETARY OF STATE.

MR. IGOE: OKAY. WELL, APPARENTLY SHE WAS EMPLOYED BY THE SECRETARY OF STATE'S OFFICE, BUT SHE'S NEVER BEEN EMPLOYED BY THE ELECTIONS COMMISSION.

MRS. MCINTYRE: WELL, YOU KNOW, THAT WAS THE ONLY INFORMATION THAT I HAD, AND YOU CAN SEE HOW I WOULD FEEL.

MR. IGOE: WELL, CAN YOU SEE HOW WE FEEL?

MRS. MCINTYRE: NO, NOT REALLY.

MR. IGOE: WELL, WHY WOULD YOU MAKE AN ALLEGATION THAT SHE'S GOT PERSONAL AND/OR PROFESSIONAL INVOLVEMENT WITH MEMBERS OF THIS COMMISSION?

MRS. MCINTYRE: I -- HOW MANY OF YOU KNOW MRS. BRUNNER PERSONALLY?

MR. IGOE: MA'AM, I KNOW YOU. I HAVE CERTAINLY SEEN YOU HERE SIX MONTHS IN A ROW. THAT'S THE EXTENT OF MY KNOWING MS. BRUNNER.

MRS. MCINTYRE: SHE'S WORKED RIGHT IN THIS BUILDING. I UNDERSTAND SHE WORKED DOWNSTAIRS AND THAT SHE WORKED FOR THE SECRETARY OF STATE, WHICH, OF COURSE, YOU WORK FOR THE SECRETARY OF STATE.

MR. IGOE: I DON'T WORK FOR THE SECRETARY OF STATE.

MRS. MCINTYRE: THE COMMISSION ISN'T THROUGH THE SECRETARY OF STATE?

MS. MOSS: NO, MA'AM, AND FOR YOUR INFORMATION, I NEVER SAW MRS. BRUNNER UNTIL WE WALKED INTO THE HEARING BEFORE THIS COMMISSION, AND FOR YOUR INFORMATION, I DID NOT APPRECIATE YOUR ALLEGATIONS, PARTICULARLY WHEN IT APPEARS THAT THEY ARE MADE WITHOUT ANY KNOWLEDGE OR ANY BASIS IN FACT WHATSOEVER.

MRS. MCINTYRE: ONLY ON THE INFORMATION THAT I HAD OBTAINED.

MS. MOSS: I CONSIDER IT PERSONALLY INSULTING AND I CONSIDER IT INSULTING TO

THIS ENTIRE COMMISSION.

MRS. MCINTYRE: WELL, IF I'M WRONG, THEN I'M SORRY, BUT LIKE I SAID, THE INFORMATION THAT I'D RECEIVED WAS THAT SHE HAD WORKED FOR THE COMMISSION.

MS. MOSS: FROM WHOM DID YOU RECEIVE YOUR INFORMATION? WHAT EFFORTS DID YOU MAKE TO VERIFY THAT INFORMATION BEFORE YOU MADE THESE ACCUSATIONS?

MRS. MCINTYRE: I ASKED MRS. BRUNNER STRAIGHT OUT, "DID YOU WORK FOR THE ELECTIONS COMMISSION?" AND SHE SAID YES. NOW, WHETHER IT WAS PRIOR TO YOU, I HAVE NO IDEA, BUT THAT WAS -- I WAS GOING, LIKE I SAID, ON THE INFORMATION THAT I HAD OBTAINED.

MR. IGOE: ANYBODY ELSE WANT TO --

MR. BRACHMAN: I'D JUST LIKE TO SUBSCRIBE TO THIS -- I'D LIKE TO SUBSCRIBE TO THE VIEW OF THE COMMISSION AS TO THE TOTAL UNACCEPTABILITY OF THE APPARENT ALLEGATIONS, AND THEN TO FURTHER NOTE THAT THE CHAIRMAN HAS TAKEN VERY PROPER COURSE IN EXAMINING WHAT CERTAINLY APPEARS TO BE A FALSE ALLEGATION THAT HAS NO WARRANT REGARDING THIS COMMISSION OR ANY MEMBERS AND OBVIOUSLY HAS NO REFLECTION OR CONNECTION TO THE TYPE OF CASE THAT IS BEFORE US.

MR. IGOE: OKAY.

MA'AM?

MRS. MCINTYRE: YES.

MR. IGOE: PLEASE PRESENT YOUR CASE.

MRS. MCINTYRE: THE INFORMATION IS IN FRONT OF YOU ON THE FLIERS THAT I DISTRIBUTED. I WAS NOT -- I WAS DOING IT AS AN INDIVIDUAL. I HAVE NEVER -- I WAS NEVER A COMMITTEE. THERE WAS NEVER ANYONE ELSE INVOLVED. MY SON AND HIS GIRLFRIEND DROVE UP WITH ME, AND THEY WERE NOT PASSING OUT, AS FAR AS I KNOW, UNLESS THEY WERE DOING IT IN THE PARKING LOT. NOW, THERE WAS A -- MY NAME WAS ON IT, MY ADDRESS WAS ON IT, AND IF MR. HAYFIELD CAME UP WITH SOMETHING THAT DID NOT HAVE IT, THEN I DON'T KNOW WHERE HE GOT IT.

MR. IGOE: MA'AM, I'VE GOT -- ACTUALLY I HAVE THREE COPIES OF THE SAME HANDOUT. THE FIRST ONE IS SIGNED -- THIS IS EXHIBIT A -- SIGNED "THANK YOU, CONCERNED PARENTS AND TAXPAYERS," WHICH IS PLURAL, OBVIOUSLY. THE NEXT ONE I HAVE IS EXHIBIT B, WHICH SAYS, "THANK YOU, CONCERNED PARENTS AND TAXPAYERS. NOT PAID FOR BY PUBLIC FUNDS."

NOW, DID YOU PUT THAT INCLUSION "NOT PAID FOR BY PUBLIC FUNDS" ON THE SECOND DOCUMENT?

MRS. MCINTYRE: YES, I DID.

MR. IGOE: OKAY. THEN I HAVE A THIRD ONE, WHICH YOU'VE ATTACHED WITH A COPY OF AN AFFIDAVIT FROM THE PRINTER, AND THIS IS EXHIBIT 1, AFFIDAVIT FROM WHOEVER OWNS INSTANT COPY, THAT SAYS YOU'RE A LAW-ABIDING CITIZEN AND WOULDN'T DO ANYTHING ILLEGAL. I DON'T HAVE ANY REASON TO NOT BELIEVE THAT.

AND IT SAYS, "CONCERNED PARENTS AND TAXPAYERS, MRS. J. R. MCINTYRE, 5278 BROADVIEW ROAD, COLUMBUS, NOT PAID WITH PUBLIC FUNDS." WAS THAT DISTRIBUTED ALSO?

MRS. MCINTYRE: YES IT WAS.

MR. IGOE: OKAY. AND THIS WAS DONE AT SOME POINT AFTER A AND B WERE PASSED OUT?

MRS. MCINTYRE: NO. AS FAR AS I KNOW, THEY WERE ALL THE SAME AS THEY WERE BEING DISTRIBUTED.

MR. IGOE: YOU MEAN YOU DIDN'T GO BACK TO THE PRINTER AND HAVE THIS INCLUDED AND TYPED?

MRS. MCINTYRE: THERE WERE SOME EXTRA ONES MADE, BECAUSE WE RAN OUT AFTER THE FIRST.

MR. IGOE: MA'AM, WHEN YOU HAD THE EXTRA ONES MADE, IS THAT WHEN YOU HAD YOUR NAME AND ADDRESS PUT ON IT?

MRS. MCINTYRE: LET ME SEE.

MR. IGOE: HERE'S THE FIRST ONE.

MRS. MCINTYRE: NO, MY NAME SHOULD HAVE BEEN ON HERE RIGHT UNDERNEATH THIS ONE, ON THIS ONE RIGHT HERE, THE SAME AS IT IS ON HERE.

MR. IGOE: WHAT ABOUT THIS ONE?

MRS. MCINTYRE: SHOULD HAVE BEEN THE SAME, BECAUSE THESE ARE ONE AND THE SAME.

MR. IGOE: BUT DIDN'T YOU JUST TELL ME YOU PUT THIS IN --

MRS. MCINTYRE: YEAH, BUT THOSE WERE WRITTEN IN. THEY SHOULD HAVE BEEN WRITTEN IN ON ALL OF THEM. NOW, IF THIS WAS CUT OFF --

MR. IGOE: THEN WHY DIDN'T YOU WRITE YOUR NAME HERE?

MRS. MCINTYRE: THE NAME WOULD HAVE BEEN UNDER THIS.

MR. IGOE: IT'S NOT UNDERNEATH HERE.

MRS. MCINTYRE: I DON'T KNOW ABOUT THIS ONE. SOME OF THEM WERE, BUT NOT MANY OF THEM, BECAUSE SOME WERE RUN OFF ON A HOME COMPUTER AND SOME WERE RUN OFF BY THE PRINTER.

MR. IGOE: OKAY. DO YOU HAVE ANYTHING FURTHER?

MRS. MCINTYRE: AND AS FAR AS SAYING "CONCERNED PARENTS AND TAXPAYERS," THE LEVIES HAVE BEEN VOTED DOWN BEFORE, AND I HAVE TALKED TO A LOT OF PEOPLE WHO WERE REALLY CONCERNED ABOUT ONE LEVY RIGHT AFTER ANOTHER AND THE CAUSES FOR THE LEVIES. NOW, YOU SAY THAT YOU REPRESENT -- A PERSON IN OFFICE, YOU SAY THEY REPRESENT THE PEOPLE. OKAY. PEOPLE I HAD TALKED TO HAD ASKED ME AND WE HAD TALKED ABOUT IT; "WHAT ARE WE GOING TO DO ABOUT IT?" I SAYS, "THE ONLY THING WE CAN DO IS TO FIGHT IT WITH EVERY WAY WE KNOW HOW TO FIGHT IT WITH."

NOW, I FEEL THAT BEING DENIED PASSING OUT THIS LITERATURE WOULD DEFINITELY BE AN INFRINGEMENT OF MY FIRST AMENDMENT RIGHTS, BECAUSE I WAS WORKING AS AN IN-

DIVIDUAL CITIZEN, NOT AS A COMMITTEE, NOT AS A GROUP; THEREFORE, I DIDN'T NEED TO FILE ANYTHING.

MR. IGOE: EXCEPT YOU DIDN'T IDENTIFY YOURSELF AS AN INDIVIDUAL; YOU IDENTIFIED YOURSELF AS A GROUP.

MRS. MCINTYRE: WELL, THE ONES I PASSED OUT, TO THE BEST OF MY KNOWLEDGE, ALL OF THEM HAD MY NAME ON THEM, ALL OF THEM. I WOULDN'T HAVE PASSED IT OUT WITHOUT MY NAME ON IT.

MR. IGOE: ANY QUESTIONS?

MS. MOSS: I JUST HAVE ONE QUESTION OF -- I DON'T REMEMBER WHO I WANTED TO ASK IT OF.

MRS. MCINTYRE, THESE PARTICULAR PIECES OF LITERATURE BEFORE US HAVE NOT BEEN A SUBJECT OF ANY PRIOR COMPLAINT BEFORE US; IS THAT CORRECT?

MRS. MCINTYRE: NO.

MS. MOSS: NO, THAT'S NOT CORRECT, OR NO, THEY HAVE NOT?

MRS. MCINTYRE: I KNOW THEY HAVE NOT BEEN BEFORE YOU BEFORE THIS, AND IF THERE WAS SUCH A GREAT CONCERN ABOUT THE VIOLATION, WHY DID MR. HAYFIELD WAIT A YEAR TO FILE THEM?

MS. MOSS: THE ONLY OTHER QUESTION I HAD IS I BELIEVE I HEARD YOU TELL MR. IGOE THAT SOME OF EXHIBIT A AND B WERE PRINTED OFF A HOME COMPUTER AND SOME WERE PROFESSIONALLY PRINTED --

MRS. MCINTYRE: YES.

MS. MOSS: -- IS THAT CORRECT?

MRS. MCINTYRE: YES.

MS. MOSS: OKAY. AND ON THOSE THAT WERE RUN OFF ON THE HOME COMPUTER, DID YOU RUN THOSE OFF YOURSELF?

MRS. MCINTYRE: YES, I DID.

MS. MOSS: OKAY. AND YOU PUT YOUR NAME AND ADDRESS ON THEM --

MRS. MCINTYRE: YES, I DID.

MS. MOSS: -- ON THE HOME COMPUTER?

MRS. MCINTYRE: YES.

MS. MOSS: ON THE ONES THAT WERE PROFESSIONALLY PRINTED, WERE THOSE PRINTED OFF OF YOUR ORIGINAL OR WERE THEY PROFESSIONALLY TYPESET?

MRS. MCINTYRE: NO, WE HAD -- I HAD TYPED THEM OUT, AND THE PRINTER HAD MADE SOME CORRECTIONS BEFORE HE PRINTED THEM. HE HAD MADE SOME ERRORS IN THEM, AND THEN HE WENT BACK AND CHANGED THEM, BUT BASICALLY THE LAST ONES THAT WERE PASSED OUT WERE DONE BY THE PRINTER.

MS. MOSS: OKAY. SO, THEY WERE PROFESSIONALLY TYPESET; THEY WERE NOT RUN OFF FROM YOUR ORIGINAL COPY?

MRS. MCINTYRE: NO, NOT THAT WERE -- FROM THE VERY ORIGINAL, NO, NOT THAT -- FROM THE ONE THAT CAME OFF MY COMPUTER.

MS. MOSS: OKAY. THANK YOU.

(DISCUSSION OFF THE RECORD.)

MR. HAYFIELD: MR. CHAIRMAN, MAY I SPEAK, SIR?

MR. IGOE: I THINK WE'RE FINISHED --

MR. HAYFIELD: OKAY.

MR. IGOE: -- UNLESS YOU GOT SOMETHING ELSE, OTHER EVIDENCE, BUT EDITORIAL COMMENTS, I DON'T THINK WE --

MR. HAYFIELD: ONE COMMENT. AFTER -- THE ORIGINAL MEETINGS WE HAD SCHEDULED HAD NOTHING TO DO WITH THE CAMPAIGN. AFTER THE MEETING WE FOUND MOST OF THE FLIERS WERE DISTRIBUTED IN A WASTEPAPER CAN, AND I HAD THE CUSTODIAN IN EACH MEETING GO THROUGH TO SEE IF WE COULD FIND ANY PIECE OF LITERATURE THAT HAD THE NAMES AFFIXED TO IT. WE FOUND NONE, AND I SAW NO GOOD REASON TO SUBMIT BOXES OF LITERATURE TO YOU.

(DISCUSSION OFF THE RECORD.)

MS. WASHINGTON: IN THE CASE OF 89A-9, FIND NO VIOLATION OF OHIO REVISED CODE 3517.10(D), NO VIOLATION OF 3017.13(E), FIND A VIOLATION OF 3599.00 AND IMPOSE A FINE OF -- EXCUSE ME, 3599.09 AND IMPOSE A VIOLATION OF \$100.

MS. MOSS: SECOND.

MR. IGOE: ALL IN FAVOR.

ALL COMMISSION MEMBERS: AYE.

MR. IGOE: THANK YOU.

[Certificate Omitted in Printing]

Ohio Elections Commission
State Office Tower, 14th Floor
Columbus, Ohio 43266-0418
(614) 466-2585

March 30, 1990

CASE NO. 89A-9
Hayfield v. McIntyre

TO: Margaret McIntyre

Please be advised that the Ohio Elections Commission adopted the following finding(s) in the above-referenced case at its meeting of March 19, 1990:

That there is no violation of Ohio's Revised Code section(s) 3517.10(D) and 3517.13(E).

That there is a violation of Ohio Revised Code section 3599.09 and therefore, the Commission imposes upon Margaret McIntyre a fine of \$100.

The above fines must be paid no later than thirty days after the date of this letter. Payment should be made payable to The Ohio Elections Commission at the above address.

If you have any questions, please feel free to contact me.

Very truly yours,

Roger F. Deal
Commission Counsel

RFD:ds

cc: Jennifer L. Brunner

0024E

**IN THE COMMON PLEAS COURT
OF FRANKLIN COUNTY
COLUMBUS, OHIO**

Margaret McIntyre,
Appellant,

vs.

Case No.

Ohio Elections Commission,
Appellee.

NOTICE OF APPEAL

Now comes Appellant, Margaret McIntyre, by and through counsel, and appeals the decision of the Ohio Elections Commission mailed March 30, 1990, in Ohio Elections Commission Case No. 89A-9 titled "Hayfield v. McIntyre" on the basis that the decision operates to deny Appellant rights guaranteed by the 5th, 6th and 14th Amendments to the United States Constitution.

George Q. Vaile (VAI01)
Attorney for Appellant
620 Vancouver Drive
Westerville, Ohio 43081
Phone: (614) 891-0670

[Certificate Omitted in Printing]

Decision of Judge Thompson in Common Pleas Court

[Reprinted in appendix to Petition for *Certiorari* p.A-33]

IN THE COMMON PLEAS COURT OF
FRANKLIN COUNTY
COLUMBUS, OHIO

MARGARET MC INTYRE,	:
Appellant,	:
	:
vs.	: Case No. 90CVE-04-
	: 2835
OHIO ELECTIONS	: JUDGE THOMPSON
COMMISSION	:
Appellee.	:

JUDGMENT ENTRY

In accordance with the Decision of the Court filed on September 10, 1990, the decision of the Appellee, Ohio Elections Commission, against the Appellant, Margaret McIntyre, rendered on March 19, 1990, in which the Appellee found that the Appellant had violated Section 3599.09 of the Ohio Revised Code and should pay a fine of \$100.00, is hereby reversed for the reason that the March 19, 1990 ruling of the Appellee is not supported by the Record and represents an unconstitutional application of Section 3599.09.

(s) Thompson
Judge Tommy L. Thompson

Approved:

George Q. Vaile (VAI01)
Attorney for Appellant
620 Vancouver Drive
Westerville, Ohio 43081
Phone: (614) 891-0670

ANTHONY J. CELEBREZZE, JR., Attorney General

by Catherine M. Cola (COL49)
Assistant Attorney General
Chief Counsel's Staff
Attorney for Appellee
30 East Broad Street, 16th Floor
Columbus, Ohio 43266-0410
Phone: (614) 466-2872

IN THE COURT OF APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

MARGARET McINTYRE,	:	
Plaintiff-Appellee,	:	90AP1221
	:	
v.	:	CASE NO. _____
	:	
OHIO ELECTIONS	:	
COMMISSION,	:	
Defendant-Appellant.	:	

NOTICE OF APPEAL

Please take notice that Defendant-Appellant, the Ohio Elections Commission, hereby appeals the Judgment Entry issued on October 2, 1990 in the case of *Margaret McIntyre v. Ohio Elections Commission*. Case No. 90CVF-04-2835 rendered by the Court of Common Pleas. A copy of the Judgment Entry is attached to this notice of appeal.

Respectfully submitted,
ANTHONY J. CELEBREZZE, JR.
Attorney General

CATHERINE M. COLA (COL49)
Assistant Attorney General
Chief Counsel's Staff
30 East Broad St., 15th Floor
Columbus, OH 43266-0410
614/466-2872

Opinion of Court of Appeals

[Reprinted in appendix to Petition for *Certiorari* p.A-16]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Margaret McIntyre,	:	
Appellant-Appellee,	:	
	:	
v.	:	No. 90AP-1221
	:	
Ohio Elections	:	(REGULAR
Commission	:	CALENDAR)
Appellee-Appellant.	:	

JOURNAL ENTRY OF JUDGMENT

For the reasons stated in the opinion of this court rendered herein on April 7, 1992, appellant's assignments of error are sustained and appellee's assignment of error is overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is reversed, and this cause is remanded to that court for further proceedings in accordance with law consistent with said opinion.

BRYANT and PETREE, JJ.

By _____
Judge Peggy Bryant

cc: George Q. Vaile
Patrick A. Devine

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Margaret McIntyre,
Appellant-Appellee,

v.

Ohio Elections Commission,
Appellee-Appellant.

Case No. 90AP-1221
(Regular Calendar)

NOTICE OF APPEAL

Appellant-Appellee, Margaret McIntyre, respectfully gives Notice, that she is appealing the decision of the Court of Appeals, Tenth Appellate District, Franklin County, Ohio, rendered in this matter and journalized on April 10, 1992 to the Ohio Supreme Court. A copy of the *Journal Entry of Judgment* is attached hereto.

Respectfully submitted,

George Q. Vaile
Registration Number 0023918
Attorney for Appellant- Appellee
776 County Road 24
Marengo, Ohio 43334
Ph: (614) 747-2218 or 891-0670

[Certificate Omitted in Printing]

Ohio Supreme Court Opinion

[Reprinted in appendix to Petition for *Certiorari* p.A-1]

THE SUPREME COURT OF OHIO

1993 TERM

90CVF04-2835

To wit: September 22, 1993

Margaret McIntyre,
Appellant,

v.

Ohio Elections Commission,
Appellee.

Case No. 92-1147

: JUDGMENT ENTRY

: APPEAL FROM THE
: COURT OF APPEALS

This cause, here on appeal from the Court of Appeals for Franklin County, was considered in the manner prescribed by law. On consideration thereof, the judgment of the court of appeals is affirmed consistent with the opinion rendered herein.

It is further ordered that the appellee recover from the appellant its costs herein expended; and that a mandate be sent to the Court of Common Pleas for Franklin County to carry this judgment into execution; and that a copy of this entry be certified to the Clerk of the Court of Appeals for Franklin County for entry.

COSTS:

Motion Fee, \$40.00, paid by George Q. Vaile.

(Court of Appeals No. 90AP1221)

THOMAS J. MOYER
Chief Justice

IN THE COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO

MARGARET McINTYRE, :
Appellant, :

v.

OHIO ELECTIONS
COMMISSION,
Appellee.

Case No. 90CVF-04-
2835
JUDGE THOMPSON

JUDGMENT ENTRY

In accordance with the mandate issued by the Supreme Court on September 22, 1993, and consistent with the Supreme Court's opinion reported at 67 Ohio St. 3d 391 (Case No-91-1147), Judgment is hereby entered for the appellee Ohio Elections Commission.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that R.C. 3599.09 is constitutional and that the decision of the Ohio Elections Commission finding appellant in violation of R.C. 3599.09 and fining her \$100 is AFFIRMED as being supported by reliable, probative, and substantial evidence, and in accordance with law. Costs to be paid by appellant.

SO ORDERED:

TOMMY L. THOMPSON, JUDGE

APPROVED:

George Q. Vaile (0023918)
776 Country Road 24
Marengo, Ohio 43334
Attorney for Margaret McIntyre

Patrick A. Devine (0022919)
Assistant Attorney General
30 East Broad Street, 15th Floor
Columbus, Ohio 43215
Attorney for Ohio Elections Commission

IN THE COURT OF COMMON PLEAS,
FRANKLIN COUNTY, OHIO

MARGARET McINTYRE, :	:	
Appellant, :	:	Case No. 90CVF-04-
v. :	:	2835
OHIO ELECTIONS :	:	JUDGE THOMPSON
COMMISSION, :	:	
Appellee. :	:	

STAY ORDER

For good cause shown, this Court's Judgment Entry affirming the decision of the Ohio Elections Commission in accordance with the Ohio Supreme Court's opinion reported at 67 Ohio St. 3d 391 is hereby STAYED pending the outcome of the United States Supreme Court's disposition of Margaret McIntyre's petition for writ of *certiorari*.

SO ORDERED:

TOMMY L. THOMPSON, JUDGE

APPROVED:

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